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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/671,300	09/24/2003	David Holden	DH-001	8019

7590

10/02/2006

Dane C. Butzer  
681 Woodduck Ct.  
Columbus, OH 43215

EXAMINER

LE, TAN

ART UNIT

PAPER NUMBER

3632

DATE MAILED: 10/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/671,300

Applicant(s)

HOLDEN, DAVID

Examiner

Tan Le

Art Unit

3632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 July 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 42-51 is/are pending in the application.
- 4a) Of the above claim(s) 50 and 51 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 42-49 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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### **DETAILED ACTION**

1. This application contains claims numbered 42-51. Claims 1-41 have been canceled. Claims 42-51 have been added by the amendment filed July 26, 2006.
2. With respect to newly added claims 50 and 51. These claims are not readable to the species elected because the elected species of Figures 3-6 does not have hole(s) on the spacer and the spacer is not adjustable. Holes and adjustable features are directed to the species of Figures 8-9 and/or Figure 10 respectively. Accordingly, claims 50 and 51 are withdrawn from consideration as not being readable with the elected species.

### ***Claim Objections***

3. Claim 44 is objected to because of the following informalities: Claim 44 recites limitation appears to be repeated/redundant with claim 41. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 42-49 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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Claims 42-49 are rejected because there is inconsistency between the language in the preamble (the preamble implies the subcombination such as clips and covering *for a floor, deck or arena cover*) (claim 42, line 1) and certain portions in the body of the claim (such as the clips *clipped to the floor, deck or arena cover* (claim 42, line 5) implies the combination of the clips and the floor, deck or arena), thereby making the scope of the claim unclear. Applicant is required to clarify what the claim is intended to be drawn to i.e, either the clips and covering alone or the combination of the clips and covering and the floor, deck or arena cover and the language of the claim be consistent with the intent. In formulating a rejection on the merits, the examiner is considering that the claim is drawn to the clips and covering (sheet or tarp) only (subcombination only).

***Claim Rejections - 35 USC § 102***

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 42-44 and 47-49 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 6,149,229 to Dillon, Jr. et al.

As to claims 42 and 44, read on Dillon, Jr. et al as follows: Dillon, Jr. discloses at least one clip (16) (connecting member) comprising two plates (24, 26), a spacer that connects the plates and holds the plates apart by a gap (no numeral) (where 16 is pointing), and at least one part of a hook-and-loop fastener (28) attached to at least one of the plates opposite the other of plates; and a sheet (14) attached to the clip via the clip's hook-and -loop fastener.

As to claim 48, wherein the plates are substantially rectangular shaped.

As to claim 49, wherein the spacer connects the plates at an edge of each plate.

***Allowable Subject Matter***

6. Claim 45 is rejected but would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

***Conclusion***

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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Claim 43 claims limitations that are not a positive part of the claims therefore also read on Dillon, Jr. et al.

As to claim 47, Dillon, Jr. et al. also teaches the clip can be formed of steel material (see col. 2, lines 55-57).

As to claim 48, wherein the plates are substantially rectangular shaped.

As to claim 49, wherein the spacer connects the plates at an edge of each plate.

Claims 42-44 and 46-49 are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent No. 6,672,621 to Moss.

As to claims 42 and 44, read on Moss as follows: Moss discloses at least one clip (12) comprising two plates (front leg and back leg) (16, 14), a spacer that connects the plates and holds the plates apart by a gap (no numeral) (where 12 is pointing), and at least one part of a hook-and-loop fastener (20) attached to at least one of the plates opposite the other of plates; and a sheet (60) attached to the clip via the clip's hook-and-loop fastener.

Claim 43 claims limitations that are not a positive part of the claims therefore also read on Moss.

As to claim 46, Moss also teaches the clips are of generally U-shaped configuration (col. 2, lines 62), therefore the plates (front leg and back leg) are considered generally parallel.

As to claim 47, Moss also teaches the clip generally made of resilient material, such as metal such as steel or aluminum (see col. 2, line 61).

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tan Le whose telephone number is (571) 272-6818.

The examiner can normally be reached on Mon. through Fri. from 9:00 AM-6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman can be reached on (571) 272-6842. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Tan Le  
September 20, 2006



Carl D. Friedman  
Supervisory Patent Examiner  
Group 3600

五十二

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